

**FORM NO. 353-3 - CITATION  
THE STATE OF TEXAS**

To:

**PEERLESS INDEMNITY INSURANCE COMPANY  
BY SERVING ITS REGISTERED AGENT CORPORATION SERVICE COMPANY  
211 E 7TH ST STE 620  
AUSTIN TX 78701-3218**

**GREETINGS:**

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the 14th District Court at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **ALBERT MOKHTAR D/B/A GEORGETOWN OFFICE COMMUNITY**

Filed in said Court 4th day of April, 2016 against

**PEERLESS INDEMNITY INSURANCE COMPANY**

For Suit, said suit being numbered DC-16-03847, the nature of which demand is as follows: Suit on **INSURANCE** etc. as shown on said petition **REQ FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

**WITNESS: FELICIA PITRE**, Clerk of the District Courts of Dallas, County Texas.  
Given under my hand and the Seal of said Court at office this 5th day of April, 2016.

**ATTEST: FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas  
/s/ Altha Miles

By \_\_\_\_\_, Deputy  
ALTHA MILES



**ESERVE**

**CITATION**

**DC-16-03847**

**ALBERT MOKHTAR  
vs. PEERLESS INDEMNITY  
INSURANCE COMPANY**

**ISSUED THIS  
5th day of April, 2016**

**FELICIA PITRE  
Clerk District Courts,  
Dallas County, Texas**

By: **ALTHA MILES**, Deputy

**Attorney for Plaintiff  
PATRICK CONNELL MCGINNIS  
PMCGINNIS@MERLINLAWGROUP.COM  
3RIVERWAY STE 701  
HOUSTON TX 77056  
713-626-8880**

**DALLAS COUNTY  
SERVICE FEES  
NOT PAID** (Delivered)

04/13/16  
B. Ginn  
304481

04.13.16 377

**EXHIBIT C-1**

### OFFICER'S RETURN

Case No. : DC-16-03847

Court No. 14th District Court

Style: ALBERT MOKHTAR

vs. PEERLESS INDEMNITY INSURANCE COMPANY

Came to hand on the 13<sup>th</sup> day of April, 2016, at 9:38 o'clock A.M. Executed at \_\_\_\_\_  
within the County of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_, by delivering to the within named \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by  
me in serving such process was \_\_\_\_\_ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said \_\_\_\_\_ before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
to certify which witness my hand and seal of office.

\_\_\_\_\_  
Notary Public \_\_\_\_\_ County \_\_\_\_\_

JURY DEMAND

1 CIT-ESERVE

FILED  
DALLAS COUNTY  
4/4/2016 12:13:25 PM  
FELICIA PITRE  
DISTRICT CLERK

arivera@merlinlawgroup.com

CAUSE NO. DC-16-03847

Christi Underwood

ALBERT MOKHTAR D/B/A GEORGETOWN OFFICE COMMUNITY	§	IN THE DISTRICT COURT OF
	§	
Plaintiffs	§	
	§	
versus	§	DALLAS COUNTY, TEXAS
	§	
PEERLESS INDEMNITY INSURANCE COMPANY	§	
Defendant	§	_____ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION AND  
REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Plaintiff, ALBERT MOKHTAR D/B/A GEORGETOWN OFFICE COMMUNITY (hereinafter collectively referred to as "Plaintiff"), who files this original petition and request for disclosure against defendant, PEERLESS INDEMNITY INSURANCE COMPANY (hereinafter sometimes referred to as "PEERLESS" or "Defendant"), and for cause of action would show the following:

**A. DISCOVERY CONTROL PLAN**

1. Plaintiff intends for discovery to be conducted under Level 3 of Rule 190 of the Texas Rules of Civil Procedure.
2. Plaintiff seeks in excess of \$100,000.00.

**B. PARTIES**

3. ALBERT MOKHTAR D/B/A GEORGETOWN OFFICE COMMUNITY is a resident of Los Angeles, California. The real estate, which is GEORGETOWN OFFICE COMMUNITY is located in Dallas, Dallas County, Texas.

4. PEERLESS INDEMNITY INSURANCE COMPANY is a foreign insurance company licensed to do business in the State of Texas, with its principal place of business in Illinois. Service may be had on PEERLESS INDEMNITY INSURANCE COMPANY via Certified Mail, Return Receipt Requested to: Corporation Service Company, 211 East 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218.

**C. JURISDICTION**

5. This court has jurisdiction over the cause of action because the amount in controversy is within the jurisdictional limits of the court.

6. The court has jurisdiction over the defendant because PEERLESS:

- a. is authorized to do insurance business in the state of Texas;
- b. engages in the business of insurance in Texas;
- c. the cause of action arises out of its business activities in Texas.

**D. VENUE**

7. Venue is proper in Dallas County, Texas because:

- a. The property which was insured by PEERLESS, and which sustained damages as a result of the storm made the basis of this suit, is located in Dallas County, Texas;
- b. The damage to MOKHTAR for which it made a claim to PEERLESS for insurance proceeds was incurred in Dallas County, Texas as a result of a wind and hail storm that traveled through Dallas County, Texas;
- c. This case involves a breach of contract where the breach occurred in Dallas County, Texas;

**E. FACTS**

8. MOKHTAR is the owner of a Texas commercial insurance Policy issued by

PEERLESS with Policy No. BOP 1039973 (hereinafter sometimes referred to as "Policy") for the Policy period of 03/15/2013 through 03/15/2014. MOKHTAR owns the insured property located at 17768 Preston, Dallas, Texas 75252 (hereinafter sometimes referred to as "Building").

9. PEERLESS sold the Policy insuring the Building for damages resulting from wind and hail and lightening, including, without limitation, the physical damage, loss of income and expenses of processing the claim, all of which are more particularly described in the Policy. MOKHTAR paid all premiums when due and was issued the Policy, which was in full force and effect at the time that the damages were sustained as a result of a wind and hail and lightning storm, which occurred on or about 06/03/2013, (hereinafter sometimes referred to as "Storm").

10. As a result of the Storm, which struck the Dallas, Texas area, including MOKHTAR'S Building, on or about 06/03/2013, MOKHTAR suffered losses covered under the Policy. The Building sustained severe damages, which required temporary repairs. MOKHTAR sustained damages for mitigation of damages. MOKHTAR continues to suffer damages, which are covered under the Policy.

11. After the Storm, MOKHTAR reported a claim to PEERLESS and hired a public insurance adjuster. MOKHTAR submitted to PEERLESS the construction bid of Sun Coast Claims in the total amount of \$52,826.00. PEERLESS only paid \$9,463.66 on the claim.

12. Since PEERLESS has partially denied the claim, it is obvious that PEERLESS had all the information in its possession that it reasonably required to accept or reject the claim.

13. MOKHTAR paid premiums to PEERLESS in exchange for PEERLESS agreeing to pay for all covered damages as a result of a covered event such as this hailstorm. PEERLESS has failed to pay for all covered damages and, therefore, is guilty of breach of contract.

14. PEERLESS has paid \$9,463.66 on the claim. As per the Prompt Payment Act in Section 542, all damages in excess of \$9,463.66 and recovered by MOKHTAR are subject to 18% interest per annum from about 06/03/2013 until the date paid.

**F. CAUSES OF ACTION**

**COUNT I  
BREACH OF CONTRACT BY PEERLESS**

15. Paragraphs 1 through 14 are incorporated by reference.

16. MOKHTAR has actually or effectively met all conditions precedent necessary for filing this claim, or in the alternative, PEERLESS has waived any argument that conditions precedent were not met.

17. The conduct of PEERLESS, as described above, constitutes a breach of the insurance contract made between PEERLESS and MOKHTAR.

18. PEERLESS' failure and refusal, as described above, to pay the adequate compensation as it is obligated to do under the terms of THE POLICY and under the laws of the State of Texas, constitutes material breaches of the insurance contract with MOKHTAR. PEERLESS' breach of the contract proximately caused MOKHTAR to suffer damages in the form of actual damages, consequential damages, along with reasonable and necessary attorney's fees. MOKHTAR has complied with all obligations and conditions required of it under the insurance contract.

**COUNT II  
THE FAILURE OF PEERLESS TO COMPLY WITH  
TEXAS INSURANCE CODE CHAPTER 542: THE  
PROMPT PAYMENT OF CLAIMS ACT**

19. Paragraphs 1 through 18 are incorporated by reference.

20. MOKHTAR has actually or effectively met all conditions precedent necessary for filing this claim, or in the alternative, PEERLESS has waived any argument that conditions precedent were not met.

21. PEERLESS's conduct constitutes multiple violations of the *Texas Prompt Payment of Claims Act*, TEX. INS. CODE Chapter 542. All violations made under this article are made actionable by TEX. INS. CODE Section 542.060.

22. PEERLESS's failure, described above, to commence investigation of the claims and request from MOKHTAR all items, statements and forms that they reasonably believe would be required within the applicable time constraints, constitutes a non-payment of the claims. TEX. INS. CODE Section 542.055-542.060.

23. PEERLESS's delay of payment of MOKHTAR's claims, described above, following its receipt of all items, statements and forms reasonably requested and required longer than the amount of time prescribed for, constitutes a non-prompt payment of the claims. TEX. INS. CODE Sections 542.055-542.060.

#### **G. REQUEST FOR DISCLOSURE**

24. Paragraphs 1 through 23 are incorporated by reference.

25. Pursuant to TRCP Rule 194, MOKHTAR requests that defendants disclose the materials described in TRCP Rule 194.2.

#### **H. DAMAGES AND PRAYER**

26. Paragraphs 1 through 25 are incorporated by reference.

27. The conduct of PEERLESS, breaching its contract with MOKHTAR, as described herein, was a producing cause of MOKHTAR's economic damages. As a result, MOKHTAR suffered economic damage and expenses for which PEERLESS is liable.

28. WHEREFORE, PREMISES CONSIDERED, plaintiff herein, MOKHTAR, prays that defendants, PEERLESS be cited to appear and answer, and that on a final trial on the merits, plaintiffs recover from defendants as follows:

29. Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the proximate and/or producing causes of damages sustained by Plaintiff.

30. For breach of contract, MOKHTAR is entitled to regain the benefit of its bargain, which is the amount of the claims, together with attorney's fees.

31. For non-compliance with the *Texas Prompt Payment of Claims Act*, MOKHTAR is entitled to the amount of its damages, as well as 18% interest per annum, post judgment interest, as allowed by law, and for any other further relief, either at law or in equity to which they may show themselves to be justly entitled.

32. For any and all other damages, including, but not limited to, pre-judgment and post-judgment interest, to which MOKHTAR may be entitled, both in equity and at law.

Respectfully submitted,

**MERLIN LAW GROUP**

/s/ Patrick Connell McGinnis

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ATTORNEYS FOR PLAINTIFF

**JURY DEMAND**

Plaintiff respectfully demands a trial by jury.

/s/ Patrick Connell McGinnis  
Patrick Connell McGinnis